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OFFICE OF PETITIONS

In re Application of
Yamamoto et al.
Application No. 09/881,134
Filed: June 14, 2001
Attorney Docket No. AVERY-66095

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 2, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed January 15, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on April 16, 2003. A Notice of Abandonment was mailed on August 12, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950.00 extension of time fee submitted with the petition on March 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy